

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARCUS UPSHAW,)	
)	Civil Action No. 2: 18-cv-1578
Petitioner,)	
)	United States District Judge
v.)	Nora Barry Fischer
)	
ERIC TICE, Superintendent; DISTRICT)	
ATTORNEY OF ALLEGHENY COUNTY,)	
and ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA,)	
)	
Respondents.)	

ORDER

AND NOW, this 6th day of June, 2019, in accordance with the foregoing Memorandum Opinion issued on this date, it is hereby **ORDERED** that the Petition for Writ of Habeas Corpus is **DISMISSED** as untimely.

Inasmuch as reasonable jurists would not find it debatable whether the instant petition is untimely and that no grounds for equitable tolling exist, **IT IS FURTHER ORDERED** that no certificate of appealability shall issue.

The Report and Recommendation filed on May 10, 2019 (ECF No. 16), as supplemented by the Memorandum Opinion issued on this date, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:

s/Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc: MARCUS UPSHAW
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Ronald M. Wabby, Jr.
Office of the District Attorney
(via CM/ECF electronic notification)